



THE UNITED STATES PATENT AND TRADEMARK OFFICE

#13K
6/23/03
M

IN RE APPLICANT

: Jackowski et al.

INVENTION

: Biopolymer Marker Indicative Of
Disease State Having A Molecular
Weight Of 1424 Daltons

SERIAL NUMBER

: 09/845,726

RECEIVED

FILING DATE

: April 30, 2001

JUN 20 2003

EXAMINER

: Nguyen, Bao-Thuy L.

TECH CENTER 1600/2900

GROUP ART UNIT

: 1641

OUR FILE NO.

: 2132.033

RESPONSE TO OFFICE ACTION OF MARCH 27, 2003

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being
deposited with the U.S. Postal Service as First Class mail
in an envelope addressed to Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450 on 6-11-03

Susan Hess

Mail Stop: Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated March 27, 2003
having a shortened statutory period for response set to expire
April 27, 2003, and for which a Request for Extension of Time
along with the appropriate fee is filed concurrently herewith,
kindly enter the following response:

Restriction/Election

Restriction to one of the following inventions has been required under 35 USC 121:

- I. Claims 1-10, drawn to a biopolymer marker, classified in class 530, subclass 300, for example.
- II. Claims 10-28, drawn to a diagnostic assay kit, classified in class 436, subclass 518, for example.
- III. Claim 29, drawn to a polyclonal antibody, classified in class 436, subclass 547, for example.
- IV. Claims 30-32, drawn to a monoclonal antibody, classified in class 435, subclass 70.21, for example.
- V. Claims 33-34, drawn to method for identifying a disease, classified in class 436, subclass 501, for example.
- VI. Claim 35, drawn to a method for regulating disease, classified in class 436, subclass 55, for example.

Applicants here elect with traverse Group I (as drawn to claims 1-10) for prosecution on the merits.

It is noted that claim 10, which is drawn to a diagnostic assay kit is included within both Groups I and II.

If the biopolymer marker peptide consisting of amino acid residues 2-12 of SEQ ID NO:1 is found to be novel, methods and kits limited to its use should also be found to be novel.

This application is related in claim format to several pending applications of which serial number 09/846,352 is exemplary. The biopolymer marker of serial number 09/846,352 was found to be novel and subsequently claims reading on methods and kits limited to its use were rejoined with the claims reading on the biopolymer marker under *Ochai*. In an effort to maintain equivalent scope in all of these applications, Applicants respectfully request that the Examiner reconsider the restriction requirement in the instant application to include the new claims (36-43) added herein by amendment.